

No. 15620

United States
COURT OF APPEALS
for the Ninth Circuit

WARDE H. ERWIN AND MARY LOU ERWIN,
Appellants

v.

RALPH C. GRANQUIST, District Director of Internal
Revenue,
Appellee

*On Appeal from the Judgment of the United States
District Court for the District of Oregon*

BRIEF FOR THE APPELLEE

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BRIEF FOR THE APPELLEE

OPINION BELOW

The District Court did not write an opinion. Its findings of fact and Conclusions of law (R. 9) are not officially reported.

JURISDICTION

This appeal involves additions to tax for failure to file a declaration of estimated tax for the year 1952. The additions to tax assessed by the Commissioner of In-

ternal Revenue were paid on June 14, 1955. (R. 7.) A claim for refund was filed by taxpayers on March 6, 1956. (R. 8.) On September 14, 1956, after more than six months had elapsed from the filing of the claim for refund the taxpayers, in accordance with the provisions of Section 3772, Internal Revenue Code of 1939, filed their complaint in the District Court. (R. 3-6.) Jurisdiction was conferred upon the District Court by 28 U. S. C., Section 1340. Judgment was entered by the District Court on May 10, 1957. (R. 10.) An order denying motions filed by the taxpayers to amend the judgment and to substitute other findings of fact was thereafter entered. (R. 13.) On June 5, 1957, within sixty days of the entry of the final judgment and order on May 10, 1957, a notice of appeal was filed (R. 13-14.) Jurisdiction is conferred on this Court by 28 U. S. C., Section 1291.

QUESTION PRESENTED

The only question presented is whether Section 58 of the Internal Revenue Code of 1939, which for the year in issue required the filing of a declaration of estimated tax by the taxpayer on or before March 15, 1952, is constitutional.

STATUTES INVOLVED

The pertinent statutes involved are set forth in the Appendix, *infra*.

STATEMENT

On May 9, 1955, the Commissioner of Internal Revenue assessed taxes of \$307.66, additions to tax in the amount of \$171 and interest of \$40.15. (R. 7.) The assessment of the additions to tax was based in part on the taxpayers' failure to file a declaration of and pay an estimated tax during the year 1952. (R. 5-6.) The only contention made by taxpayers with respect to this addition to tax was that Section 58 of the Internal Revenue Code of 1939, which requires the filing of a declaration of estimated tax is unconstitutional and void. (R. 8.) The District Court resolved this issue against the taxpayers holding that Section 58 "is constitutional as a valid exercise of the taxing power accorded the Congress under the Constitution". (R. 9.)

SUMMARY OF ARGUMENT

Neither Section 58 of the Internal Revenue Code of 1939, which requires a taxpayer to file a declaration of his estimated income for the current year and to make quarterly payment of his income tax as the income is earned, nor Section 294(d)(1)(A), which provides for an addition to tax for wilful failure to file a declaration or to make the quarterly payments, constitutes an arbitrary exercise by Congress of its power to tax.

Section 58 is a part of the Congressional plan to put taxpayers on a pay-as-you-go basis and was intended to supplement the withholding provisions of the Code by requiring current payment of tax on that income which

could not as a practical matter be subjected to withholding at the source. The withholding provisions of the Code have been held to be constitutional and Section 58 is constitutional as a necessary corollary of those provisions. The Courts of Appeals for the Tenth and the Fifth Circuits have held Section 58 to be a constitutional exercise of Congress' power to tax. The District Court in agreeing with these courts has reached a correct result and, accordingly, should be affirmed.

ARGUMENT

THE DISTRICT COURT CORRECTLY HELD THAT THE PROVISIONS OF SECTION 58 OF THE INTERNAL REVENUE CODE OF 1939, REQUIRING THE FILING OF A DECLARATION OF ESTIMATED TAX ARE CONSTITUTIONAL.

The only issue presented in this appeal is whether Section 58 of the Internal Revenue Code of 1939, Appendix, *infra*, which, in the instant case, required that the taxpayers file a declaration of estimated tax on or before March 15, 1952, is constitutional. An addition to tax for failure to file such a declaration is mandatory unless such failure is shown to have been due to reasonable cause and not to wilful neglect. Section 294(d)(1) (A), Internal Revenue Code of 1939, Appendix, *infra*. The taxpayers in the instant case have not contended that they were not required by the statute to file a declaration or that their failure to file the required declaration was due to reasonable cause; instead, they contend only that Section 58 is unconstitutional. The District Court held, contrary to the taxpayers' contentions, that Section 58 was a valid exercise of the taxing

power conferred upon Congress by the Constitution and, accordingly, did not allow taxpayers a refund of the assessed addition to tax. In so doing, we submit the District Court was correct and should be affirmed.

It is clear, we submit, that neither Section 58, requiring a declaration of estimated tax, nor Section 294 (d)(1)(A), providing for an addition to tax for an unreasonable failure to file a deduction, represents an arbitrary encroachment by Congress upon any power forbidden to it. Section 58 of the 1939 Code was rewritten by Section 5(a) of the Current Tax Payment Act of 1943, c. 120, 57 Stat. 126, as part of the plan adopted in that year to have income tax collections placed on a pay-as-you-go basis. That statute contemplated that taxpayers would have their tax withheld as they earned wages, and that the tax would be paid currently to the Collector. The power to collect a tax on income by a withholding procedure at the source of the income as it is earned cannot be questioned. *Brushaber v. Union Pacific R. R.*, 240 U. S. 1; *Kellems v. United States*, 97 F. Supp. 681 (Conn.) However, since Congress found that it was impossible to apply the withholding provisions to other forms of income, Section 58 was enacted as a corollary to the withholding provisions. It was intended to place taxpayers who earned income on which tax would not be withheld on a pay-as-you-go basis by means of having these taxpayers estimate their tax for the current year and to pay such estimated tax within the year in four equal quarterly installments. To assist the Commissioner in administering these provisions,

Congress considered it necessary to require taxpayers to estimate their income in advance for the current year and to prepare and file a declaration of their estimated tax. See H. Rep. No. 401, 78th Cong., 1st Sess., pp. 11-13, 32-39 (1943 Cum. Bull. 1283, 1290-1291, 1307-1312); S. Rep. No. 221, 78th Cong., 1st Sess., pp. 8-10, 35-43 (1943 Cum. Bull. 1314, 1319-1321, 1340-1346); H. Conference Rep. No. 510, 78th Cong., 1st Sess., pp. 49-59 (1943 Cum. Bull. 1351, 1367-1374).

It is basic that, where Congress has the power to enact certain legislation, it can implement such legislation by other provisions. Article I, Section 8, of the Constitution of the United States; *McCulloch v. Maryland*, 4 Wheat. 316, 428. In this instance, Section 58 was a valid exercise by Congress of its taxing power, as being necessary to the exercise of its constitutional power to collect a tax on income as it is earned. And Section 294(d)(1)(A) was a proper implementation of Section 58. Congress has broad discretion in establishing procedures by which its tax exactions may be made effective. *Steward Machine Co. v. Davis*, 301 U. S. 548; *Helvering v. Davis*, 301 U. S. 619. It recognized that an effective administration of a pay-as-you-go tax on income which was not withheld depended upon full disclosure by a taxpayer of his estimated income for the current year. If no disclosure were made it would be difficult for the Commissioner to collect currently the tax on such income. Consequently, Section 294(d)(1)(A) was enacted to insure, among other things, that a taxpayer would file a declaration of his estimated tax by providing for an addition to tax for failure to file such a declaration.

H. Rep. No. 401, *supra*; S. Rep. No. 221, *supra*; H. Conference Rep. No. 510, *supra*.

The taxpayers' contentions that Section 58 is unconstitutional rest in large part on the proposition that the taxpayer must make a "guess" (Br. 15.) as to what his income for the year will be. Thus, taxpayers argue that since they are required to estimate their income for the year under penalties of perjury, the statute contravenes the privilege against self-incrimination contained in the Fifth Amendment to the Constitution (Br. 14-15) and is also a violation of the right guaranteed by the Fourth Amendment to be free from an unreasonable search and seizure.

There is no merit whatever in such contentions. The taxpayers have not pointed to any authority which warrants the speculation that an honest, even though inaccurate, estimation of their income would lead to a prosecution for perjury. Indeed, Section 58(d)(2) provides a procedure for amendment of a declaration at various times during the year so that the estimate can be made to conform with the facts as they develop. And, further, no addition to tax for substantial underestimation of the tax is permitted if the estimation is based upon facts existing during the preceding years. Section 294(d)(2).

Certainly, an argument cannot reasonably be made that a statute violates the privilege against self-incrimination merely because it requires that a taxpayer accurately and honestly state *facts* to his Government under penalties of perjury. Nor can Section 58 reasonably be considered to be in violation of the Fourth Amendment

to the Constitution. There is no relationship whatever between the requirement of furnishing information to the Government and the prohibition against unreasonable search and seizure.*

Neither is there any merit in taxpayers' argument that Section 58 contravenes the due process requirements of the Fifth Amendment because it lacks certainty. In other cases in which taxpayers have complained that certain provisions of tax statutes violate the due process clause of the Fifth Amendment, the Supreme Court and the various Courts of Appeals have repeatedly reaffirmed the basic doctrine that the Government's power to levy and collect taxes should not be crippled, and that the due process clause is not a limitation upon the taxing powers of Congress, except in the rare and special instances where the tax statute "be so arbitrary as to compel the conclusion that it does not involve an exertion of the tax power, but constitutes, in substance

* *Boyd v. United States*, 116 U. S. 616, cited by taxpayers (Br. 15) is not applicable. That case held (pp. 634-635) that "a compulsory production of the private books and papers of the owner of goods sought to be forfeited in such a suit [a suit for forfeiture or penalty] is compelling him to be a witness against himself, within the meaning of the Fifth Amendment to the Constitution, and is the equivalent of a search and seizure—and an unreasonable search and seizure—within the meaning of the Fourth Amendment." The instant statute does not require a compulsory production of books and records; it merely requires a return declaring what a taxpayer estimates his income will be for a particular year. The requirement of such a return does not violate the privilege against self-incrimination or the right to be free from unreasonable search and seizure. In this respect, it is similar to the requirement of filing the final income tax return. See *United States v. Sullivan*, 274 U. S. 259.

and effect, the direct exertion of a different and forbidden power, as, for example, the confiscation of property." *Magnano Co. v. Hamilton*, 292 U. S. 40, 44; *Foley Securities Corp. v. Commissioner*, 106 F. 2d 731, 735-737 (C. A. 8th); *Davis v. United States*, 87 F. 2d 323 (C. A. 2d), certiorari denied, 301 U. S. 704, rehearing denied, 302 U. S. 773; *Brushaber v. Union Pac. R. R.*, *supra*; *McCray v. United States*, 195 U. S. 27. Cf. *Kitagawa v. Shipman*, 54 F. 2d 313 (C. A. 9th).

As we have pointed out above, since the requirement of filing declarations of estimated tax is a necessary corollary to withholding provisions of the tax law (which have been held constitutional), there can be no serious argument made that Section 58 is an arbitrary exercise of Congressional power.

Neither does Section 58 impose a direct tax which, under the Constitution, must be apportioned. A direct tax is a tax on property or a capitation tax. *Pollock v. Farmers' Loan & Trust Co.*, 157 U. S. 429. Section 58 does not impose either kind of tax. It merely requires the filing of a return stating what the estimated tax for the year will be; Section 59 of the Internal Revenue Code of 1939, Appendix, *infra*, provides for the time for payment of the estimated tax. Neither of these sections levies a tax which can be called a direct tax. The statutory scheme makes it plain that what was intended, and what was accomplished, was to place taxpayers on a current pay-as-you-go basis. The amounts paid as estimated tax are considered payment of the tax for the year involved. Section 59(d). Certainly, the requirement of paying tax concurrently with earning the income can-

to the Constitution. There is no relationship whatever between the requirement of furnishing information to the Government and the prohibition against unreasonable search and seizure.*

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not convert a constitutional income tax into an unconstitutional direct tax. Where an Act of Congress is claimed to be unconstitutional a presumption exists in favor of its validity, and it is only where the question is free from any reasonable doubt that a court should hold an Act to be in violation of the Constitution. *Nicol v. Ames*, 173 U. S. 509, 514-515; *Brown v. Maryland*, 12 Wheat. 419, 436. With respect to Congress' power to enact a tax, the Supreme Court has stated in *Brushaber v. Union Pac. R. R.*, *supra*, p. 12:

That the authority conferred upon Congress by Sec. 8 of Article I

“to lay and collect taxes, duties, impost and excises” is exhaustive and embraces every conceivable power of taxation has never been questioned, or, if it has, has been so often authoritatively declared as to render it necessary only to state the doctrine.

The constitutionality of Sections 58 and 294(d) (1)(A) has already been upheld by two Courts of Appeals. See *Porth v. Brodrick*, 214 F. 2d 925 (C. A. 10th); *Walker v. United States*, 240 F. 2d 601 (C. A. 5th), certiorari denied, 354 U. S. 939. See also *Beacham v. Commissioner*, 28 T. C. No. 67. (on appeal, C. A. 5th).

Other provisions of the Current Tax Payment Act of 1943 requiring employers to withhold tax on salaries paid to their employees as well as similar withholding provisions relating to withholding of social security tax or the tax on self-employment income have also been held to be constitutional. *Abney v. Campbell*, 206 F. 2d 836 (C. A. 5th), certiorari denied, 346 U. S. 924; *Cain v. United States*, 211 F. 2d 375 (C. A. 5th); *Kellems v.*

United States, supra. In addition, the constitutionality of the provisions under attack here has been assumed in cases imposing additions to tax for failure to file a declaration of estimated tax. See e.g. *Stephan v. Commissioner*, 197 F. 2d 712 (C. A. 5th); *Coates v. Commissioner*, 234 F. 2d 459 (C. A. 8th); *Clayton v. Commissioner*, decided January 25, 1956 (1956 P-H. T. C. Memorandum Decisions par. 56,021), affirmed, 245 F. 2d 238 (C. A. 6th).

Mr. Erwin, the taxpayer in the instant case, filed a brief as *amicus curiae* in the *Walker* case and presented the same arguments which are now made to this Court. The Fifth Circuit, however, rejected those contentions, upheld the addition to tax for failing to file a declaration of estimated tax and stated (240 F. 2d 601, 602):

* * * it is difficult to perceive any sound reason why Congress should not have possessed the power to lay this duty [i.e. to file a declaration of estimated tax] upon taxpayers as a reasonable constituent of the mechanics of ascertaining the amount of taxes to be assessed.

In the circumstances, we submit there are no real doubts concerning the constitutionality of Section 58 of the 1939 Code. In so holding, the District Court was correct.

CONCLUSION

For the reasons stated, the judgment of the District Court should be affirmed.

Respectfully submitted,

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APPENDIX

Internal Revenue Code of 1939:

SEC. 58 [As amended by Section 13(a), Individual Income Tax Act of 1944, c. 210, 58 Stat. 231; Section 202(a), Revenue Act of 1948, c. 168, 62 Stat. 110; Section 208(d)(4), Social Security Act Amendments of 1950, c. 809, 64 Stat. 477; and Section 221(g) Revenue Act of 1950, c. 994, 64 Stat. 906]. DECLARATION OF ESTIMATED TAX BY INDIVIDUALS.

(a) *Requirement of Declaration.*—Every individual (other than an estate or trust and other than a non-resident alien with respect to whose wages, as defined in section 1621(a), withholding under Subchapter D of Chapter 9 is not made applicable, but including every alien individual who is a resident of Puerto Rico during the entire taxable year) shall, at the time prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if—

(1) his gross income from wages (as defined in section 1621) can reasonably be expected to exceed the sum of \$4,500 plus \$600 with respect to each exemption provided in section 25(b); or

(2) his gross income from sources other than wages (as defined in section 1621) can reasonably be expected to exceed \$100 for the taxable year and his gross income to be \$600 or more.

(b) *Contents of Declaration.*—In the declaration required under subsection (a) the individual shall state—

(1) the amount which he estimates as the amount of tax under this chapter for the taxable year, without regard to any credits under sections 32 and 35 for taxes withheld at source and without regard to the tax imposed by subchapter E on self-employment income;

(2) the amount which he estimates as the credits for the taxable year under sections 32 and 35; and

(3) the excess of the amount estimated under paragraph (1) over the amount estimated under paragraph (2), which excess for the purposes of this chapter shall be considered the estimated tax for the taxable year.

The declaration shall also contain such other information for the purposes of carrying out the provisions of this chapter as the Commissioner, with the approval of the Secretary may by regulations prescribe, and shall contain or be verified by a written statement that it is made under the penalties of perjury.

(c) *Joint Declaration by Husband and Wife.*—In the case of a husband and wife, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or wife is a nonresident alien. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

(d) *Time and Place for Filing.*—

(1) *In General.*—The declaration required under subsection (a) shall be filed on or before March 15 of the taxable year, except that if the requirements of section 58(a) are first met

(A) after March 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(B) after June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(C) after September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(2) *Amendment of Declaration.*—An individual may make amendments of a declaration filed during

the taxable year under this subsection, under regulations prescribed by the Commissioner with the approval of the Secretary. If so made, such amendments may be filed on or before the fifteenth day of the last month of any quarter of the taxable year subsequent to that in which the declaration was filed and in which no previous amendment has been filed, except that in the case of an amendment filed after September 15 of the taxable year, it may be filed on or before January 15 of the succeeding taxable year. Declarations and amendments thereof shall be filed with the collector specified in section 53(b)(1).

(3) *Return as Declaration or Amendment.*—If on or before January 15 of the succeeding taxable year the taxpayer files a return, for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the Commissioner with the approval of the Secretary—

(A) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such January 15, such return shall, for the purposes of this chapter, be considered as such declaration; and

(B) If the tax shown on the return (reduced by the credits under sections 32 and 35) is greater than the estimated tax shown in a declaration previously made, or in the last amendment thereof, such return shall, for the purposes of this chapter, be considered as the amendment of the declaration permitted by paragraph (2) to be filed on or before such January 15.

(e) *Extension of Time.*—The Commissioner may grant a reasonable extension of the time for filing declarations and paying the estimated tax, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(f) *Persons Under Disability*.—If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(g) *Signatures Presumed Correct*.—The fact that an individual's name is signed to a filed declaration shall be prima facie evidence for all purposes that the declaration was actually signed by him.

(h) *Publicity of Declaration*.—For the purposes of section 55 (relating to publicity of returns), a declaration of estimated tax shall be held and considered a return under this chapter.

(26 U. S. C. 1952 ed., Sec. 58)

SEC. 59 *supra* [As amended by Section 13(a), Individual Income Tax Act of 1944]. PAYMENT OF ESTIMATED TAX.

(a) *In General*.—The estimated tax shall be paid as follows:

(1) If the declaration is filed on or before March 15 of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year.

(2) If the declaration is filed after March 15 and not after June 15 of the taxable year, and is not required by section 58(d) to be filed on or before March 15 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year.

(3) If the declaration is filed after June 15 and not after September 15 of the taxable year, it is not

required by section 58(d) to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second on January 15, of the succeeding taxable year.

(4) If the declaration is filed after September 15 of the taxable year, and is not required by section 58(d) to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(5) If the declaration is filed after the time prescribed in section 58(d) (including cases in which an extension of time for filing the declaration has been granted under section 58(e)), paragraphs (2), (3), and (4) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in section 58(d), and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(b) *Amendments of Declaration.*—If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease, as the case may be, in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(c) *Installments Paid in Advance.*—At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(d) *Payment as Part of Tax for Taxable Year.*—Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for

the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.
(26 U. S. C. 1952 ed., Sec. 59)

SEC. 294 [As amended by Section 118(a), Revenue Act of 1943, c. 63, 58 Stat. 21, Sections 6(b), (8), and 13(b) of the Individual Income Tax Act of 1944, *supra*, Section 2, Act of January 2, 1951, c. 1195, 64 Stat. 1136; and Section 103(b), Revenue Act of 1951, c. 521, 65 Stat. 452].

* * * * *

(d) *Income Tax.*—

(1) *Failure to File Declaration or Pay Installment of Estimated Tax.*—

(A) *Failure to file declaration.*—In the case of a failure to make and file a declaration of estimated tax within the time prescribed, unless such failure is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to wilful neglect, there shall be added to the tax 5 per centum of each installment due but unpaid, and in addition, with respect to each such installment due but unpaid, 1 per centum of the unpaid amount thereof for each month (except the first) or fraction thereof during which such amount remains unpaid. In no event shall the aggregate addition to the tax under this subparagraph with respect to any installment due but unpaid, exceed 10 per centum of the unpaid portion of such installment. For the purposes of this subparagraph the amount and due date of each installment shall be the same as if a declaration had been filed within the time prescribed showing an estimated tax equal to the correct tax reduced by the credits under sections 32 and 35.

(B) *Failure to pay installments of estimated tax declared.*—Where a declaration of estimated tax has been made and filed within the time prescribed or where a declaration of estimated tax has been made and filed after the time prescribed

and the Commissioner has found that failure to make and file such declaration within the time prescribed was due to reasonable cause and not to willful neglect, in the case of a failure to pay an installment of the estimated tax within the time prescribed, unless such failure is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect, there shall *be added to the tax 5 per centum of the unpaid amount* of such installment, and in addition 1 per centum of such unpaid amount for each month (except the first) or fraction thereof during which such amount remains unpaid. In no event shall the aggregate addition to the tax under this subparagraph with respect to any installment due but unpaid, exceed 10 per centum of the unpaid portion of such installment.

(2) *Substantial Underestimate of Estimated Tax.*

—If 80 per centum of the tax (determined without regard to the credits under sections 32 and 35), in the case of individuals other than farmers exercising an election under section 60(a), or 66 $\frac{2}{3}$ per centum of such tax so determined in the case of such farmers, *exceeds the estimated tax* (increased by such credits), there shall be added to the tax an amount equal to such excess, *or equal to 5 per centum* of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser. This paragraph shall not apply to the taxable year in which falls the death of the taxpayer, nor, under regulations prescribed by the Commissioner with the approval of the Secretary, shall it apply to the taxable year in which the taxpayer makes a timely payment of estimated tax within or before each quarter (excluding, in case the taxable year begins in 1943, any quarter beginning prior to July 1, 1943) of such year (or in the case of farmers exercising an election under section 60(a), within the last quarter) in an amount at least as great as though computed (under such regulations) on the basis of the taxpayer's status with respect to the personal exemption and credit for

dependents on the date of the filing of the declaration for such taxable year (or in the case of any such farmer, or in case the fifteenth day of the third month of the taxable year occurs after July 1, on July 1 of the taxable year) but otherwise on the basis of the facts shown on his return for the preceding taxable year. In the case of taxable years beginning prior to October 1, 1950, and ending after September 30, 1950, the additions to tax prescribed by this subsection shall not be applicable if the taxpayer failed to meet the 80 per centum and 66 $\frac{2}{3}$ per centum requirements of this paragraph by reason of the increase in normal tax and surtax on individuals imposed by section 101 of the Revenue Act of 1950. In the case of taxable years beginning prior to November 1, 1951, and ending after October 31, 1951, the additions to tax prescribed by this subsection shall not be applicable if the taxpayer failed to meet the requirements of this paragraph by reason of the increase in rates of tax on individuals imposed by the Revenue Act of 1951.

(26 U. S. C. 1952 ed., Sec. 294)